HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.17805 of 1998

13th July 2006

Between:

D. Suryanarayana

.. Petitioner

And

The Chairman,
Ordnance Factory Board,

Calcutta and six others.

…Respondents

HON'BLE SRI JUSTICE B. PRAKASH RAO

AND

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.17805 of 1998

ORDER: (Per Hon'ble Sri Justice Ramesh Ranganathan)

The present writ petition is filed aggrieved by the order of the Andhra Pradesh Administrative Tribunal at Hyderabad, in O.A.No.964 of 1995 dated 25.02.1998, whereby the request of the petitioner to reckon his seniority in the category of Supervisors Non-technical on par with respondent Nos. 3 to 7, who were promoted to the post of Chargeman Grade-II with effect from 30.06.1995, was rejected.

Facts, in brief, are that the petitioner joined as an LDC in the scale of pay of Rs.950-1500 with effect from 21.07.1983. Respondent Nos. 3 to 7 joined as LDCs thereafter. On an option being exercised by him, the petitioner was promoted as Security Assistant Grade-B, in the scale of pay of Rs.1200-1800, with effect from 09.09.1987. However, respondent Nos.3 to 7 did not choose to opt for promotion to the post of Security Assistant Grade-B and continued as LDCs. The channel of promotion from the post of LDC, for persons who had not opted for the post of Security Assistant Grade-B, was to the post of UDC in the scale of pay of Rs.1200-2040, after rendering a minimum of 5 years of regular service. Respondent Nos.3 to 7 were promoted as UDCs during the year 1988-'89 after rendering the required period of five years of regular service. The next promotion from that of UDC was to that of Chargeman Grade-II (NT-OTS), in the scale of pay of Rs.1400-2300, after rendering a minimum period of three years in the post of UDC whereas promotion

from the post of Security Assistant Grade-B was to that of a Supervisor (NT-OTS) in the scale of pay of Rs.1200-2040 after rendering a minimum regular service of 3 years as Security Assistant Grade-B. It is only after an erstwhile Security Assistant Grade-B had rendered three years service in the post of Supervisor was he entitled to be considered for promotion to the post of Chargeman Grade-II in the scale of pay of Rs.1400-2300. The petitioner herein was promoted as Supervisor in the scale of pay of Rs.1200-2040 with effect from 01.01.1991. Promotion to the post of Chargeman Grade-II, from the feeder posts of UDC and Supervisors, is after rendering three years of regular service in the respective posts. The petitioner herein completed three years of service in the post of Supervisor in the year 1994 whereas respondent Nos. 3 to 7 completed three years of regular service in the post of UDC prior thereto in the year 1992.

The contention of the petitioner before the Tribunal was that since he was senior to respondent Nos. 3 to 7 in the category of LDC, he ought to have been considered for promotion in the integrated combined seniority list to the post of Chargeman Grade-II and that he ought to have been promoted to the post of Chargeman Grade-II earlier than respondent Nos. 3 to 7. The Tribunal held that since the petitioner had, on his own volition, submitted his willingness to become a Security Assistant Grade-B and thereby withdrawn his option to become UDC, his

lein in the cadre of LDC ceased to exist. Since persons, who were promoted to the cadre of UDC from the cadre of LDC, constituted a separate class, the Tribunal held that the petitioner was not entitled to compare his seniority with that of respondent Nos.3 to 7, who were promoted as UDCs from the cadre of LDC. The Tribunal further held that once candidates were promoted to the post of UDC, the entry date in the previous cadre of LDC had no meaning and that the seniority of UDCs could not thereafter be compared with that of Security Assistants Grade-B. The Tribunal held that as Security Assistants 'B' were further promoted to the post of Supervisors, their seniority in the Supervisory cadre was to be determined on the basis of their regular date of entry in the cadre of Supervisors and that the integrated combined seniority list for promotion to the post of Chargeman Grade-II from the post of UDCs and Supervisor had to be prepared on the basis of their date of entry in their respective posts of UDC and Supervisor and their original date of entry in the cadre of LDCs could not be taken into consideration. The Tribunal held that since the petitioner had entered the Supervisory cadre in the year 1991 and respondent Nos. 3 to 7 had entered the cadre of UDC during the year 1988-89, their respective seniority was required to be decided on the basis of the date of entry in their respective cadres. Since the petitioner had entered in the cadre of Supervisor later than the date when

respondent Nos. 3 to 7 entered the cadre of UDC, the question of the petitioner being shown as senior to respondent Nos.3 to 7 did not arise. The Tribunal rejected the contention advanced by the learned counsel for the petitioner that the seniority in the original cadre of LDC should be taken into consideration as not based on any rule or circular.

Sri V. Venkateswara Rao, learned counsel for the petitioner, submits that even though the petitioner had exercised his option to be promoted to the post of Security Assistant Grade-B consequent upon new Rules framed on 04.05.1989, the posts of Security Assistants Grade-B and UDCs were merged, that subsequent to the merger, the petitioner was promoted as Supervisor from 01.01.1991 and thereafter on 14.12.1993, the post of Security Assistant Grade-B was upgraded to that of the post of Supervisor. Learned counsel would further submit that the Tribunal had not taken the original date of entry in the cadre of LDC into consideration merely on the ground that he had exercised the option for being promoted as Security Assistant Grade-B, that subsequent to the exercise of his option, the post of Security Assistant Grade-B had been merged with that of Supervisor and subsequent to the merger, the option earlier exercised would no longer be valid and the petitioner could not be denied the benefit of promotion to the post of Chargeman Grade-II ahead of or on par with respondent Nos. 3 to 7. We are afraid we cannot agree. The petitioner, on his own volition, chose to exercise his option for

promotion to the post of Security Assistant Grade-B while respondent Nos. 3 to 7 remained as LDCs. Thereafter, respondent Nos. 3 to 7 were promoted to the post of UDC during the year 1988-'89. The petitioner, after his promotion as Security Assistant Grade-B, was promoted to the next higher post of Supervisor. As rightly held by the Tribunal for the purpose of promotion to the post of Chargeman Grade-II, the seniority in the feeder cadre of UDCs and Supervisors alone was required to be taken into consideration and basing on the date of entry of respondent Nos. 3 to 7 in the cadre of UDC and that of the petitioner's entry into the Supervisor cadre, respondent Nos. 3 to 7 were rightly shown as seniors to the petitioner. The order of the Tribunal is legal and valid and does not call for interference. The Writ Petition fails and is liable to be dismissed.

The Writ Petition is accordingly dismissed. However, in the circumstances, no costs.

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B. PRAKASH RAO, J

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RAMESH RANGANATHAN, J

13th July 2006.

Chvn.